

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

HOUSE ENROLLED ACT No. 1468

AN ACT to amend the Indiana Code concerning animals and to make an appropriation.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 4-6-3-2, AS AMENDED BY P.L.222-2005, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) The attorney general shall have charge of and direct the prosecution of all civil actions that are brought in the name of the state of Indiana or any state agency.

(b) In no instance under this section shall the state or a state agency be required to file a bond.

(c) This section does not affect the authority of prosecuting attorneys to prosecute civil actions.

(d) This section does not affect the authority of the inspector general to prosecute a civil action under IC 4-2-7-6 for the recovery of funds misappropriated, diverted, missing, or unlawfully gained.

(e) The attorney general may bring an action to collect unpaid registration fees owed by a commercial dog broker or a commercial dog breeder under IC 15-21.

SECTION 2. IC 11-13-3-4, AS AMENDED BY P.L.46-2008, SECTION 1, AND AS AMENDED BY P.L.119-2008, SECTION 10, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. (a) A condition to remaining on parole is that the parolee not commit a crime during the period of parole.

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(b) The parole board may also adopt, under IC 4-22-2, additional conditions to remaining on parole and require a parolee to satisfy one (1) or more of these conditions. These conditions must be reasonably related to the parolee's successful reintegration into the community and not unduly restrictive of a fundamental right.

(c) If a person is released on parole, the parolee shall be given a written statement of the conditions of parole. Signed copies of this statement shall be:

- (1) retained by the parolee;
- (2) forwarded to any person charged with the parolee's supervision; and
- (3) placed in the parolee's master file.

(d) The parole board may modify parole conditions if the parolee receives notice of that action and had ten (10) days after receipt of the notice to express the parolee's views on the proposed modification. This subsection does not apply to modification of parole conditions after a revocation proceeding under section 10 of this chapter.

(e) As a condition of parole, the parole board may require the parolee to reside in a particular parole area. In determining a parolee's residence requirement, the parole board shall:

- (1) consider:
 - (A) the residence of the parolee prior to the parolee's incarceration; and
 - (B) the parolee's place of employment; and
- (2) assign the parolee to reside in the county where the parolee resided prior to the parolee's incarceration unless assignment on this basis would be detrimental to the parolee's successful reintegration into the community.

(f) As a condition of parole, the parole board may require the parolee to:

- (1) periodically undergo a laboratory chemical test (as defined in IC 14-15-8-1) or series of tests to detect and confirm the presence of a controlled substance (as defined in IC 35-48-1-9); and
- (2) have the results of any test under this subsection reported to the parole board by the laboratory.

The parolee is responsible for any charges resulting from a test required under this subsection. However, a person's parole may not be revoked on the basis of the person's inability to pay for a test under this subsection.

(g) As a condition of parole, the parole board:

- (1) may require a parolee who is a sex offender (as defined in IC 11-8-8-4.5) to:

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(A) participate in a treatment program for sex offenders approved by the parole board; and

(B) avoid contact with any person who is less than sixteen (16) years of age unless the parolee:

(i) receives the parole board's approval; or

(ii) successfully completes the treatment program referred to in clause (A); and

(2) shall:

(A) require a parolee who is a sex or violent offender (as defined in IC 11-8-8-5) to register with a local law enforcement authority under IC 11-8-8;

(B) prohibit a parolee who is a sex offender from residing within one thousand (1,000) feet of school property (as defined in IC 35-41-1-24.7) for the period of parole, unless the sex offender obtains written approval from the parole board;

(C) prohibit a parolee who is a sex offender convicted of a sex offense (as defined in IC 35-38-2-2.5) from residing within one (1) mile of the victim of the sex offender's sex offense unless the sex offender obtains a waiver under IC 35-38-2-2.5;

and

(D) prohibit a parolee who is a sex offender from owning, operating, managing, being employed by, or volunteering at any attraction designed to be primarily enjoyed by children less than sixteen (16) years of age;

(E) *require a parolee who is a sex offender to consent:*

(i) to the search of the sex offender's personal computer at any time; and

(ii) to the installation on the sex offender's personal computer or device with Internet capability, at the sex offender's expense, of one (1) or more hardware or software systems to monitor Internet usage; and

(F) *prohibit the sex offender from:*

(i) accessing or using certain web sites, chat rooms, or instant messaging programs frequented by children; and

(ii) deleting, erasing, or tampering with information on the sex offender's personal computer with intent to conceal an activity prohibited by item (i).

The parole board may not grant a sexually violent predator (as defined in IC 35-38-1-7.5) or a sex offender who is an offender against children under IC 35-42-4-11 a waiver under subdivision (2)(B) or (2)(C). If the parole board allows the sex offender to reside within one thousand (1,000) feet of school property under subdivision (2)(B), the parole

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board shall notify each school within one thousand (1,000) feet of the sex offender's residence of the order.

(h) The address of the victim of a parolee who is a sex offender convicted of a sex offense (as defined in IC 35-38-2-2.5) is confidential, even if the sex offender obtains a waiver under IC 35-38-2-2.5.

(i) As a condition of parole, the parole board may require a parolee to participate in a reentry court program.

(j) As a condition of parole, the parole board:

(1) shall require a parolee who is a sexually violent predator under IC 35-38-1-7.5; and

(2) may require a parolee who is a sex or violent offender (as defined in IC 11-8-8-5);

to wear a monitoring device (as described in IC 35-38-2.5-3) that can transmit information twenty-four (24) hours each day regarding a person's precise location.

(k) As a condition of parole, the parole board may prohibit, in accordance with IC 35-38-2-2.6, a parolee who has been convicted of stalking from residing within one thousand (1,000) feet of the residence of the victim of the stalking for a period that does not exceed five (5) years.

(l) As a condition of parole, the parole board may prohibit a parolee convicted of an offense under IC 35-46-3 from owning, harboring, or training an animal, and, if the parole board prohibits a parolee convicted of an offense under IC 35-46-3 from having direct or indirect contact with an individual, the parole board may also prohibit the parolee from having direct or indirect contact with any animal belonging to the individual.

~~(m)~~ **(m)** *A parolee may be responsible for the reasonable expenses, as determined by the department, of the parolee's participation in a treatment or other program required as a condition of parole under this section. However, a person's parole may not be revoked solely on the basis of the person's inability to pay for a program required as a condition of parole under this section.*

SECTION 3. IC 15-17-3-13, AS ADDED BY P.L.2-2008, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 13. In addition to the powers and duties given the board in this article and by law, the board has the powers and duties reasonable and necessary to do the following:

(1) Provide for the quarantine of animals and objects to prevent, control, and eradicate diseases and pests of animals.

(2) Develop, adopt, and implement programs and procedures for

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establishing and maintaining accredited, certified, validated, or designated disease or pest free or disease or pest monitored animals, herds, flocks, or areas, including the following:

- (A) The establishment and maintenance of herds that are monitored for disease or pest syndromes.
 - (B) The establishment and maintenance of certified or validated brucellosis free herds, animals, and areas.
 - (C) The establishment and maintenance of accredited tuberculosis free herds, animals, and areas.
- (3) Develop, adopt, and implement programs and plans for the prevention, detection, control, and eradication of diseases and pests of animals.
- (4) Control or prohibit, by permit or other means, the movement and transportation into, out of, or within Indiana of animals and objects in order to prevent, detect, control, or eradicate diseases and pests of animals. When implementing controls or prohibitions the board may consider whether animals or objects are diseased, suspected to be diseased, or under quarantine, or whether the animals or objects originated from a country, a state, an area, or a premises that is known or suspected to harbor animals or objects infected with or exposed to a disease or pest of animals.
- (5) Control or prohibit the public and private sale of animals and objects in order to prevent the spread of disease and pests of animals.
- (6) Control the use, sanitation, and disinfection of:
- (A) public stockyards; and
 - (B) vehicles used to transport animals and objects into and within Indiana;
- to accomplish the objectives of this article.
- (7) Control the use, sanitation, and disinfection of premises, facilities, and equipment to accomplish the objectives of this article.
- (8) Control the movement of animals and objects to, from, and within premises where diseases or pests of animals may exist.
- (9) Control the movement and disposal of carcasses of animals and objects.
- (10) Control the manufacture, sale, storage, distribution, handling, and use of serums, vaccines, and other biologics and veterinary drugs, except those drugs for human consumption regulated under IC 16-42-19, to be used for the prevention, detection, control, and eradication of disease and pests of animals.
- (11) Control and prescribe the means, methods, and procedures

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for the vaccination or other treatment of animals and objects and the conduct of tests for diseases and pests of animals.

(12) Develop, adopt, and implement plans and programs for the identification of animals, objects, premises, and means of conveyances. Plans and programs may include identification:

(A) of animals or objects that have been condemned under this article; and

(B) related to classification as to disease, testing, vaccination, or treatment status.

(13) Establish the terms and method of appraisal or other determination of value of animals and objects condemned under this article, the payment of any indemnities that may be provided for the animals and objects, and the regulation of the sale or other disposition of the animals or objects.

(14) Control the sale of baby chicks.

(15) Cooperate and enter into agreements with the appropriate departments and agencies of this state, any other state, or the federal government to prevent, detect, control, and eradicate diseases and pests of animals.

(16) Control or prohibit the movement and transportation into, out of, or within Indiana of wild animals, including birds, that might carry or disseminate diseases or pests of animals.

(17) Provide for condemning or abating conditions that cause, aggravate, spread, or harbor diseases or pests of animals.

(18) Establish and designate, in addition to the animal disease diagnostic laboratory under IC 21-46-3-1, other laboratories necessary to make tests of any nature for diseases and pests of animals.

(19) Investigate, develop, and implement the best methods for the prevention, detection, control, suppression, or eradication of diseases and pests of animals.

(20) Investigate, gather, and compile information concerning the organization, business conduct, practices, and management of any registrant, licensee, permittee, applicant for a license, or applicant for a permit.

(21) Investigate allegations of unregistered, unlicensed, and unpermitted activities.

(22) Institute legal action in the name of the state of Indiana necessary to enforce:

(A) the board's orders and rules; and

(B) this article.

(23) Control the collection, transportation, and cooking of garbage

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to be fed to swine or other animals and all matters of sanitation relating to the collection, transportation, and cooking of garbage affecting the health of swine or other animals and affecting public health and comfort.

(24) Adopt an appropriate seal.

(25) Issue orders as an aid to enforcement of the powers granted by this article, IC 15-18-1, and IC 15-19-6.

(26) Control disposal plants and byproducts collection services and all matters connected to disposal plants and byproducts collection services.

(27) Abate biological or chemical substances that:

(A) remain in or on any animal before or at the time of slaughter as a result of treatment or exposure; and

(B) are found by the board to be or have the potential of being injurious to the health of animals or humans.

(28) Regulate the production, manufacture, processing, and distribution of products derived from animals to control health hazards that may threaten:

(A) animal health;

(B) the public health and welfare of the citizens of Indiana; and

(C) the trade in animals and animal products in and from Indiana.

(29) Cooperate and coordinate with local, state, and federal emergency management agencies to plan and implement disaster emergency plans and programs as the plans and programs relate to animals in Indiana.

(30) Assist law enforcement agencies investigating allegations of cruelty and neglect of animals.

(31) Assist organizations that represent livestock producers with issues and programs related to the care of livestock.

(32) Establish a registry of commercial dog brokers and commercial dog breeders in Indiana.

SECTION 4. IC 15-21 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]:

ARTICLE 21. COMMERCIAL DOG BREEDER REGULATION

Chapter 1. Application and Definitions

Sec. 1. (a) This article does not apply to:

(1) an animal shelter;

(2) a humane society;

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- (3) an animal rescue operation;
- (4) a hobby breeder;
- (5) a person who breeds at least seventy-five (75%) of the person's dogs as sport dogs for hunting purposes; or
- (6) a person who breeds at least seventy-five (75%) of the person's dogs as service dogs or as dogs for use by the police or the armed forces.

(b) As used in this section, "animal rescue operation" means a person or organization:

- (1) that accepts within one (1) year:
 - (A) more than twelve (12) dogs; or
 - (B) more than nine (9) dogs and more than three (3) unweaned litters of puppies;
 that are available for adoption for human companionship as pets or as companion animals in permanent adoptive homes and that are maintained in a private residential dwelling; or
- (2) that uses a system of private residential dwellings as foster homes for the dogs.

The term does not include a person or organization that breeds dogs.

(c) As used in this section, "hobby breeder" means a person who maintains fewer than twenty (20) unaltered female dogs that are at least twelve (12) months of age.

Sec. 2. The definitions in sections 3 through 7 of this chapter apply throughout this article.

Sec. 3. "Board" refers to the Indiana state board of animal health established by IC 15-17-3-1.

Sec. 4. "Commercial dog breeder" means a person who maintains more than twenty (20) unaltered female dogs that are at least twelve (12) months of age.

Sec. 5. "Commercial dog broker" means a person:

- (1) who is a Class "B" licensee under 9 CFR 1.1; and
- (2) who sells at least five hundred (500) dogs in a calendar year.

Sec. 6. "Person" means an individual, corporation, limited liability company, partnership, or other business entity.

Sec. 7. "Veterinarian" means an individual licensed as a veterinarian under IC 25-38.1.

Chapter 2. Commercial Dog Broker and Commercial Dog Breeder Registration

Sec. 1. A person may not operate:

- (1) a commercial dog breeder operation; or

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(2) as a commercial dog broker;
without being registered with the board in accordance with this chapter.

Sec. 2. A person who:

- (1) is registered as a commercial dog breeder; and
- (2) operates a commercial dog breeder operation;

shall indicate that the person is registered as a commercial dog breeder in a place clearly visible to the public.

Sec. 3. (a) A commercial dog breeder who knowingly or intentionally fails to register with the board as a commercial dog breeder commits a Class A misdemeanor.

(b) A commercial dog broker who knowingly or intentionally fails to register with the board as a commercial dog broker commits a Class A misdemeanor.

(c) A commercial dog breeder or a commercial dog broker who fails to register with the board is liable to the state for two (2) times the amount of registration fees that the commercial dog breeder or commercial dog broker failed to pay. The attorney general may bring an action to collect unpaid commercial dog breeder or commercial dog broker registration fees. Funds collected under this subsection shall be deposited in the commercial dog breeder and broker fund established by IC 15-21-3-3.

Chapter 3. Registration Requirements

Sec. 1. (a) A commercial dog breeder shall register annually with the board.

(b) The board shall provide for notice of the upcoming expiration of registration to each registrant at least thirty (30) days before the expiration of the one (1) year period.

(c) The fee to register or renew a registration as a commercial dog breeder is:

- (1) seventy-five dollars (\$75) if the person has not more than fifty (50) unaltered female dogs at least twelve (12) months of age;
- (2) two hundred dollars (\$200) if the person has more than fifty (50) but not more than one hundred (100) unaltered female dogs at least twelve (12) months of age;
- (3) three hundred dollars (\$300) if the person has more than one hundred (100) but not more than one hundred fifty (150) unaltered female dogs at least twelve (12) months of age;
- (4) four hundred dollars (\$400) if the person has more than one hundred fifty (150) but not more than two hundred fifty (250) unaltered female dogs at least twelve (12) months of age;

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and

- (5) five hundred dollars (\$500) if the person has more than two hundred fifty (250) unaltered female dogs at least twelve (12) months of age.

The fee shall be deposited in the commercial dog breeder and broker fund established by section 3 of this chapter.

(d) A person who registers or renews a registration as a commercial dog breeder must include the following:

- (1) The name and address of the person's commercial dog breeding operation.
- (2) The name and address of the registrant.
- (3) A statement that the person's commercial dog breeding operation complies with the requirements of IC 15-21-4.
- (4) Any other information related to taxation that is required by the board.

(e) A person who knowingly or intentionally makes a material misstatement in a commercial dog breeder registration statement commits false registration as a commercial dog breeder, a Class A misdemeanor.

Sec. 2. (a) A commercial dog broker shall register annually with the board.

(b) The board shall provide for notice of the upcoming expiration of registration to each registrant at least thirty (30) days before the expiration of the one (1) year period.

(c) The fee to register or renew a registration as a commercial dog broker is one thousand dollars (\$1,000). The fee shall be deposited in the commercial dog breeder and broker fund established by section 3 of this chapter.

(d) A person who registers or renews a registration as a commercial dog broker must include the following:

- (1) The name and address of the person acting as a commercial dog broker.
- (2) The name and location of the person's commercial dog broker business.
- (3) Any other information related to taxation that is required by the board.

(e) A person who knowingly or intentionally makes a material misstatement in a commercial dog broker registration statement commits false registration as a commercial dog broker, a Class A misdemeanor.

Sec. 3. (a) The commercial dog breeder and broker fund is established for the purpose of funding:

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(1) the inspection of commercial dog breeding operations by the board; and

(2) the enforcement by the board of laws concerning commercial dog breeders and commercial dog brokers.

The fund shall be administered by the board.

(b) The fund consists of commercial dog breeder and commercial dog broker fees.

(c) The expenses of administering the fund shall be paid from money in the fund.

(d) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested. Interest that accrues from these investments shall be deposited in the fund.

(e) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(f) Money in the fund is continually appropriated to carry out the purposes of the fund.

(g) The board may adopt rules under IC 4-22-2 to implement this chapter.

Chapter 4. Duties of Commercial Dog Breeders

Sec. 1. (a) A commercial dog breeder shall comply with the standards of care set forth in 9 CFR 3.1 through 9 CFR 3.12.

(b) A commercial dog breeder:

(1) may not house a dog in a cage containing a wire floor unless the cage contains an accommodation that allows the dog to be off the wire floor;

(2) who houses a dog in a wire cage shall house the dog in a cage that is large enough to allow for reasonable movement by the dog; and

(3) shall, subject to subsection (c), provide every dog with a reasonable opportunity for exercise outside of a cage at least one (1) time per day.

(c) A commercial dog breeder who permits a dog access to a run at least one (1) time per day has satisfied the exercise requirement described in subsection (b)(3). However, a commercial dog breeder is not required to provide a dog with the opportunity for exercise if exercise would endanger the dog's life or health.

Chapter 5. Records

Sec. 1. A commercial dog breeder shall provide a consumer with a copy of a dog's vaccination, medication, and treatment records at the time the consumer purchases, exchanges, or adopts the dog.

Sec. 2. A commercial dog breeder shall maintain its records for

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at least five (5) years.

Chapter 6. Units

Sec. 1. (a) As used in this section, "unit" has the meaning set forth in IC 36-1-2-23.

(b) After December 31, 2009, a unit may not adopt an ordinance concerning regulation of commercial dog breeders that imposes more stringent or detailed requirements than the requirements under this article. A unit may enforce an ordinance concerning regulation of commercial dog breeders that imposes more stringent or detailed requirements than the requirements under this article if the ordinance was adopted before January 1, 2010.

Chapter 7. Enforcement

Sec. 1. (a) The board may enforce this article when the board determines that sufficient funds have been deposited in the commercial dog breeder and broker fund to permit enforcement.

(b) In enforcing this article, the board may:

- (1)** seek injunctive relief;
- (2)** issue an order of compliance notifying the commercial dog breeder or commercial dog broker of a violation and requiring corrective action by a certain date; and
- (3)** impose a civil penalty of not more than:
 - (A)** five hundred dollars (\$500) for a knowing violation;
 - (B)** one thousand dollars (\$1,000) for an intentional violation; and
 - (C)** five thousand dollars (\$5,000) for knowingly or intentionally violating an injunction.

(c) The board may seek an injunction to prohibit a commercial dog breeder from registering with the board for not more than three (3) years.

(d) Subsection (a) does not prohibit the board from assisting a law enforcement agency in a criminal investigation.

SECTION 5. IC 25-38.1-4-8.5, AS ADDED BY P.L.58-2008, SECTION 44, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8.5. A veterinarian or registered veterinary technician who reports in good faith and in the normal course of business a suspected incident of animal cruelty under ~~IC 35-46-3-12~~ **IC 35-46-3** to a law enforcement officer is immune from liability in any civil or criminal action brought for reporting the incident.

SECTION 6. IC 31-9-2-29.5, AS AMENDED BY P.L.171-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 29.5. "Crime involving domestic or family violence" means a crime that occurs when a family or household

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member commits, attempts to commit, or conspires to commit any of the following against another family or household member:

- (1) A homicide offense under IC 35-42-1.
- (2) A battery offense under IC 35-42-2.
- (3) Kidnapping or confinement under IC 35-42-3.
- (4) A sex offense under IC 35-42-4.
- (5) Robbery under IC 35-42-5.
- (6) Arson or mischief under IC 35-43-1.
- (7) Burglary or trespass under IC 35-43-2.
- (8) Disorderly conduct under IC 35-45-1.
- (9) Intimidation or harassment under IC 35-45-2.
- (10) Voyeurism under IC 35-45-4.
- (11) Stalking under IC 35-45-10.
- (12) An offense against the family under IC 35-46-1-2 through IC 35-46-1-8, IC 35-46-1-12, or IC 35-46-1-15.1.
- (13) Human and sexual trafficking crimes under IC 35-42-3.5.
- (14) A crime involving animal cruelty and a family or household member under ~~IC 35-46-3-12(b)(3)~~ **IC 35-46-3-12(b)(2)** or IC 35-46-3-12.5.

SECTION 7. IC 35-33-8-3.2, AS AMENDED BY P.L.104-2008, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3.2. (a) A court may admit a defendant to bail and impose any of the following conditions to assure the defendant's appearance at any stage of the legal proceedings, or, upon a showing of clear and convincing evidence that the defendant poses a risk of physical danger to another person or the community, to assure the public's physical safety:

- (1) Require the defendant to:
 - (A) execute a bail bond with sufficient solvent sureties;
 - (B) deposit cash or securities in an amount equal to the bail;
 - (C) execute a bond secured by real estate in the county, where thirty-three hundredths (0.33) of the true tax value less encumbrances is at least equal to the amount of the bail;
 - (D) post a real estate bond; or
 - (E) perform any combination of the requirements described in clauses (A) through (D).

If the court requires the defendant to deposit cash or cash and another form of security as bail, the court may require the defendant and each person who makes the deposit on behalf of the defendant to execute an agreement that allows the court to retain all or a part of the cash to pay publicly paid costs of representation and fines, costs, fees, and restitution that the court

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may order the defendant to pay if the defendant is convicted. The defendant must also pay the fee required by subsection (d).

(2) Require the defendant to execute:

(A) a bail bond by depositing cash or securities with the clerk of the court in an amount not less than ten percent (10%) of the bail; and

(B) an agreement that allows the court to retain all or a part of the cash or securities to pay fines, costs, fees, and restitution that the court may order the defendant to pay if the defendant is convicted.

A portion of the deposit, not to exceed ten percent (10%) of the monetary value of the deposit or fifty dollars (\$50), whichever is the lesser amount, may be retained as an administrative fee. The clerk shall also retain from the deposit under this subdivision fines, costs, fees, and restitution as ordered by the court, publicly paid costs of representation that shall be disposed of in accordance with subsection (b), and the fee required by subsection (d). In the event of the posting of a real estate bond, the bond shall be used only to insure the presence of the defendant at any stage of the legal proceedings, but shall not be foreclosed for the payment of fines, costs, fees, or restitution. The individual posting bail for the defendant or the defendant admitted to bail under this subdivision must be notified by the sheriff, court, or clerk that the defendant's deposit may be forfeited under section 7 of this chapter or retained under subsection (b).

(3) Impose reasonable restrictions on the activities, movements, associations, and residence of the defendant during the period of release.

(4) Require the defendant to refrain from any direct or indirect contact with an individual **and, if the defendant has been charged with an offense under IC 35-46-3, any animal belonging to the individual**, including if the defendant has not been released from lawful detention.

(5) Place the defendant under the reasonable supervision of a probation officer, pretrial services agency, or other appropriate public official. If the court places the defendant under the supervision of a probation officer or pretrial services agency, the court shall determine whether the defendant must pay the pretrial services fee under section 3.3 of this chapter.

(6) Release the defendant into the care of a qualified person or organization responsible for supervising the defendant and

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assisting the defendant in appearing in court. The supervisor shall maintain reasonable contact with the defendant in order to assist the defendant in making arrangements to appear in court and, where appropriate, shall accompany the defendant to court. The supervisor need not be financially responsible for the defendant.

(7) Release the defendant on personal recognizance unless:

(A) the state presents evidence relevant to a risk by the defendant:

- (i) of nonappearance; or
- (ii) to the physical safety of the public; and

(B) the court finds by a preponderance of the evidence that the risk exists.

(8) Require a defendant charged with an offense under IC 35-46-3 to refrain from owning, harboring, or training an animal.

~~(8)~~ (9) Impose any other reasonable restrictions designed to assure the defendant's presence in court or the physical safety of another person or the community.

(b) Within thirty (30) days after disposition of the charges against the defendant, the court that admitted the defendant to bail shall order the clerk to remit the amount of the deposit remaining under subsection (a)(2) to the defendant. The portion of the deposit that is not remitted to the defendant shall be deposited by the clerk in the supplemental public defender services fund established under IC 33-40-3.

(c) For purposes of subsection (b), "disposition" occurs when the indictment or information is dismissed or the defendant is acquitted or convicted of the charges.

(d) Except as provided in subsection (e), the clerk of the court shall:

- (1) collect a fee of five dollars (\$5) from each bond or deposit required under subsection (a)(1); and
- (2) retain a fee of five dollars (\$5) from each deposit under subsection (a)(2).

The clerk of the court shall semiannually remit the fees collected under this subsection to the board of trustees of the public employees' retirement fund for deposit in the special death benefit fund. The fee required by subdivision (2) is in addition to the administrative fee retained under subsection (a)(2).

(e) With the approval of the clerk of the court, the county sheriff may collect the bail posted under this section. The county sheriff shall remit the bail to the clerk of the court by the following business day and remit monthly the five dollar (\$5) special death benefit fee to the county auditor.

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(f) When a court imposes a condition of bail described in subsection (a)(4):

- (1) the clerk of the court shall comply with IC 5-2-9; and
- (2) the prosecuting attorney shall file a confidential form prescribed or approved by the division of state court administration with the clerk.

SECTION 8. IC 35-38-2-2.3, AS AMENDED BY P.L.3-2008, SECTION 249, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2.3. (a) As a condition of probation, the court may require a person to do a combination of the following:

- (1) Work faithfully at suitable employment or faithfully pursue a course of study or career and technical education that will equip the person for suitable employment.
- (2) Undergo available medical or psychiatric treatment and remain in a specified institution if required for that purpose.
- (3) Attend or reside in a facility established for the instruction, recreation, or residence of persons on probation.
- (4) Support the person's dependents and meet other family responsibilities.
- (5) Make restitution or reparation to the victim of the crime for damage or injury that was sustained by the victim. When restitution or reparation is a condition of probation, the court shall fix the amount, which may not exceed an amount the person can or will be able to pay, and shall fix the manner of performance.
- (6) Execute a repayment agreement with the appropriate governmental entity to repay the full amount of public relief or assistance wrongfully received, and make repayments according to a repayment schedule set out in the agreement.
- (7) Pay a fine authorized by IC 35-50.
- (8) Refrain from possessing a firearm or other deadly weapon unless granted written permission by the court or the person's probation officer.
- (9) Report to a probation officer at reasonable times as directed by the court or the probation officer.
- (10) Permit the person's probation officer to visit the person at reasonable times at the person's home or elsewhere.
- (11) Remain within the jurisdiction of the court, unless granted permission to leave by the court or by the person's probation officer.
- (12) Answer all reasonable inquiries by the court or the person's probation officer and promptly notify the court or probation officer of any change in address or employment.

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(13) Perform uncompensated work that benefits the community.
 (14) Satisfy other conditions reasonably related to the person's rehabilitation.

(15) Undergo home detention under IC 35-38-2.5.

(16) Undergo a laboratory test or series of tests approved by the state department of health to detect and confirm the presence of the human immunodeficiency virus (HIV) antigen or antibodies to the human immunodeficiency virus (HIV), if:

(A) the person had been convicted of an offense relating to a criminal sexual act and the offense created an epidemiologically demonstrated risk of transmission of the human immunodeficiency virus (HIV); or

(B) the person had been convicted of an offense relating to a controlled substance and the offense involved:

(i) the delivery by any person to another person; or

(ii) the use by any person on another person;
 of a contaminated sharp (as defined in IC 16-41-16-2) or other paraphernalia that creates an epidemiologically demonstrated risk of transmission of HIV by involving percutaneous contact.

(17) Refrain from any direct or indirect contact with an individual **and, if convicted of an offense under IC 35-46-3, any animal belonging to the individual.**

(18) Execute a repayment agreement with the appropriate governmental entity or with a person for reasonable costs incurred because of the taking, detention, or return of a missing child (as defined in IC 10-13-5-4).

(19) Periodically undergo a laboratory chemical test (as defined in IC 14-15-8-1) or series of chemical tests as specified by the court to detect and confirm the presence of a controlled substance (as defined in IC 35-48-1-9). The person on probation is responsible for any charges resulting from a test and shall have the results of any test under this subdivision reported to the person's probation officer by the laboratory.

(20) If the person was confined in a penal facility, execute a reimbursement plan as directed by the court and make repayments under the plan to the authority that operates the penal facility for all or part of the costs of the person's confinement in the penal facility. The court shall fix an amount that:

(A) may not exceed an amount the person can or will be able to pay;

(B) does not harm the person's ability to reasonably be self supporting or to reasonably support any dependent of the

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person; and

(C) takes into consideration and gives priority to any other restitution, reparation, repayment, or fine the person is required to pay under this section.

(21) Refrain from owning, harboring, or training an animal.

(22) Participate in a reentry court program.

(b) When a person is placed on probation, the person shall be given a written statement specifying:

(1) the conditions of probation; and

(2) that if the person violates a condition of probation during the probationary period, a petition to revoke probation may be filed before the earlier of the following:

(A) One (1) year after the termination of probation.

(B) Forty-five (45) days after the state receives notice of the violation.

(c) As a condition of probation, the court may require that the person serve a term of imprisonment in an appropriate facility at the time or intervals (consecutive or intermittent) within the period of probation the court determines.

(d) Intermittent service may be required only for a term of not more than sixty (60) days and must be served in the county or local penal facility. The intermittent term is computed on the basis of the actual days spent in confinement and shall be completed within one (1) year. A person does not earn credit time while serving an intermittent term of imprisonment under this subsection. When the court orders intermittent service, the court shall state:

(1) the term of imprisonment;

(2) the days or parts of days during which a person is to be confined; and

(3) the conditions.

(e) Supervision of a person may be transferred from the court that placed the person on probation to a court of another jurisdiction, with the concurrence of both courts. Retransfers of supervision may occur in the same manner. This subsection does not apply to transfers made under IC 11-13-4 or IC 11-13-5.

(f) When a court imposes a condition of probation described in subsection (a)(17):

(1) the clerk of the court shall comply with IC 5-2-9; and

(2) the prosecuting attorney shall file a confidential form prescribed or approved by the division of state court administration with the clerk.

(g) As a condition of probation, a court shall require a person:

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- (1) convicted of an offense described in IC 10-13-6-10;
- (2) who has not previously provided a DNA sample in accordance with IC 10-13-6; and
- (3) whose sentence does not involve a commitment to the department of correction;

to provide a DNA sample as a condition of probation.

SECTION 9. IC 35-41-1-6.5, AS AMENDED BY P.L.171-2007, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6.5. "Crime involving domestic or family violence" means a crime that occurs when a family or household member commits, attempts to commit, or conspires to commit any of the following against another family or household member:

- (1) A homicide offense under IC 35-42-1.
- (2) A battery offense under IC 35-42-2.
- (3) Kidnapping or confinement under IC 35-42-3.
- (4) Human and sexual trafficking crimes under IC 35-42-3.5.
- (5) A sex offense under IC 35-42-4.
- (6) Robbery under IC 35-42-5.
- (7) Arson or mischief under IC 35-43-1.
- (8) Burglary or trespass under IC 35-43-2.
- (9) Disorderly conduct under IC 35-45-1.
- (10) Intimidation or harassment under IC 35-45-2.
- (11) Voyeurism under IC 35-45-4.
- (12) Stalking under IC 35-45-10.
- (13) An offense against family under IC 35-46-1-2 through IC 35-46-1-8, IC 35-46-1-12, or IC 35-46-1-15.1.
- (14) A crime involving animal cruelty and a family or household member under ~~IC 35-46-3-12(b)(3)~~ **IC 35-46-3-12(b)(2)** or IC 35-46-3-12.5.

SECTION 10. IC 35-46-3-0.5, AS ADDED BY P.L.171-2007, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 0.5. The following definitions apply throughout this chapter:

- (1) "Abandon" means to desert an animal or to leave the animal permanently in a place without making provision for adequate long term care of the animal. The term does not include leaving an animal in a place that is temporarily vacated for the protection of human life during a disaster.
- (2) "Beat" means to unnecessarily or cruelly strike an animal, or to throw the animal against an object causing the animal to suffer severe pain or injury. The term does not include reasonable training or disciplinary techniques.

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(3) "Mutilate" means to wound, injure, maim, or disfigure an animal by irreparably damaging the animal's body parts or to render any part of the animal's body useless. The term includes bodily injury involving:

- (A) serious permanent disfigurement;
- (B) serious temporary disfigurement;
- (C) permanent or protracted loss or impairment of the function of a bodily part or organ; or
- (D) a fracture.

(4) "Neglect" means: ~~to~~

(A) ~~endanger~~ **endangering** an animal's health by failing to provide ~~or arrange to provide~~ the animal with food or drink, if the animal is dependent upon the person for the provision of food or drink; ~~or~~

(B) ~~restrain~~ **restraining** an animal for more than a brief period **in a manner that endangers the animal's life or health** by the use of a rope, chain, or tether that:

- (i) is less than three (3) times the length of the animal;
- (ii) is too heavy to permit the animal to move freely; or
- (iii) causes the animal to choke;

(C) **restraining an animal in a manner that seriously endangers the animal's life or health;**

(D) **failing to:**

- (i) **provide reasonable care for; or**
- (ii) **seek veterinary care for;**

an injury or illness to a dog or cat that seriously endangers the life or health of the dog or cat; or

(E) **leaving a dog or cat outside and exposed to:**

- (i) **excessive heat without providing the animal with a means of shade from the heat; or**
- (ii) **excessive cold if the animal is not provided with straw or another means of protection from the cold;**

regardless of whether the animal is restrained or kept in a kennel.

(5) "Torture" means:

(A) to inflict extreme physical pain or injury on an animal with the ~~sole~~ intent of increasing or prolonging the animal's pain; or

(B) to administer poison to a ~~cat or dog~~ **domestic animal (as defined in section 12(d) of this chapter)** or expose a ~~cat or dog~~ **domestic animal** to a poisonous substance with the intent that the ~~cat or dog~~ **domestic animal** ingest the substance and suffer harm, pain, or physical injury.

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SECTION 11. IC 35-46-3-5, AS AMENDED BY P.L.2-2008, SECTION 79, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. (a) Except as provided in subsections (b) through (c), this chapter does not apply to the following:

- (1) Fishing, hunting, trapping, or other conduct authorized under IC 14-22.
- (2) Conduct authorized under IC 15-20-2.
- (3) Veterinary practices authorized by standards adopted under IC 25-38.1-2-14.
- (4) Conduct authorized by a local ordinance.
- (5) Acceptable farm management practices.
- (6) Conduct authorized by ~~IC 15-17-5~~, **IC 15-17**, and rules adopted under ~~IC 15-17-5~~ **IC 15-17** for state or federally inspected livestock slaughtering facilities **and state or federal animal disease control programs**.
- (7) A research facility registered with the United States Department of Agriculture under the federal Animal Welfare Act (7 U.S.C. 2131 et seq.).
- (8) Destruction of a vertebrate defined as a pest under IC 15-16-5-24.
- (9) Destruction of or injury to a fish.
- (10) Destruction of a vertebrate animal that is:
 - (A) endangering, harassing, or threatening livestock or a domestic animal; or
 - (B) destroying or damaging a person's property.
- (11) Destruction of an animal by an animal control program, including an animal control facility, an animal shelter, or a humane society.**
- (12) Destruction of an injured or ill animal by an individual to prevent the animal from prolonged suffering.**
- (13) Conduct not resulting in serious injury or illness to the animal that is incidental to exhibiting an animal for show, competition, or display, or that is incidental to transporting the animal for show, competition, or display.**
- (14) Parking an animal.**
- (15) Humane destruction of an animal that the person owns.**

(b) Section 1 of this chapter applies to conduct described in subsection (a).

(c) Destruction of an animal by electrocution is authorized under this section only if it is conducted by a person who is engaged in an acceptable farm management practice, by a research facility registered with the United States Department of Agriculture under the Animal

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Welfare Act, or for the animal disease diagnostic laboratory established under IC 21-46-3-1, a research facility licensed by the United States Department of Agriculture, a college, or a university.

SECTION 12. IC 35-46-3-7, AS AMENDED BY P.L.171-2007, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7. (a) A person who: ~~owns~~

- (1) **has a vertebrate animal in the person's custody;** and
- (2) ~~who~~ recklessly, knowingly, or intentionally abandons or neglects the animal;

commits cruelty to an animal, a ~~Class B misdemeanor~~. **Class A misdemeanor. However, except for a conviction under section 1 of this chapter, the offense is a Class D felony if the person has a prior unrelated conviction under this chapter.**

(b) It is a defense to a prosecution **for abandoning a vertebrate animal** under this section that the ~~owner~~ **person who had the animal in the person's custody** reasonably believed that the vertebrate animal was capable of surviving on its own.

(c) **For purposes of this section, an animal that is feral is not in a person's custody.**

SECTION 13. IC 35-46-3-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 10. A person who knowingly or intentionally attends a fighting contest involving animals commits cruelty to an animal, a Class A misdemeanor. **However, except for a conviction under section 1 of this chapter, the offense is a Class D felony if the person has a prior unrelated conviction under this chapter.**

SECTION 14. IC 35-46-3-12, AS AMENDED BY P.L.171-2007, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 12. (a) This section does not apply to a person who euthanizes an injured, a sick, a homeless, or an unwanted domestic animal if:

- (1) the person is employed by a humane society, an animal control agency, or a governmental entity operating an animal shelter or other animal impounding facility; and
- (2) the person euthanizes the domestic animal in accordance with guidelines adopted by the humane society, animal control agency, or governmental entity operating the animal shelter or other animal impounding facility.

(b) A person who knowingly or intentionally beats a vertebrate animal commits cruelty to an animal, a Class A misdemeanor. However, the offense is a Class D felony if:

- (1) the person has a previous, unrelated conviction under this

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section; or

~~(2) the person knowingly or intentionally tortures or mutilates a vertebrate animal; or~~

~~(3) (2) the person committed the offense with the intent to threaten, intimidate, coerce, harass, or terrorize a family or household member.~~

(c) A person who knowingly or intentionally tortures or mutilates a vertebrate animal commits torturing or mutilating a vertebrate animal, a Class D felony.

(d) As used in this subsection, "domestic animal" means an animal that is not wild. The term is limited to:

(1) cattle, calves, horses, mules, swine, sheep, goats, dogs, cats, poultry, ostriches, rhea, and emus; and

(2) an animal of the bovine, equine, ovine, caprine, porcine, canine, feline, camelid, cervidae, or bison species.

A person who knowingly or intentionally kills a domestic animal without the consent of the owner of the domestic animal commits killing a domestic animal, a Class D felony.

~~(e)~~ **(e)** It is a defense to a prosecution under this section that the accused person:

(1) reasonably believes the conduct was necessary to:

(A) prevent injury to the accused person or another person;

(B) protect the property of the accused person from destruction or substantial damage; or

(C) prevent a seriously injured vertebrate animal from prolonged suffering; or

(2) engaged in a reasonable and recognized act of training, handling, or disciplining the vertebrate animal.

~~(f)~~ **(f)** When a court imposes a sentence or enters a dispositional decree under this section, ~~concerning a person described in subdivision (1);~~ the court:

(1) shall consider requiring:

(A) a person convicted of an offense under this section; or

(B) a child adjudicated a delinquent child for committing an act that would be a crime under this section if committed by an adult;

to receive psychological, behavioral, or other counseling as a part of the sentence or dispositional decree; and

(2) may order an individual described in subdivision (1) to receive psychological, behavioral, or other counseling as a part of the sentence or dispositional decree.

SECTION 15. [EFFECTIVE JULY 1, 2009] IC 15-21-2-3,

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IC 15-21-3-1, and IC 15-21-3-2, all as added by this act, and IC 35-46-3-0.5, IC 35-46-3-7, IC 35-46-3-10, and IC 35-46-3-12, all as amended by this act, apply only to crimes committed after June 30, 2009.

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Speaker of the House of Representatives

President of the Senate

President Pro Tempore

Governor of the State of Indiana

Date: _____ Time: _____

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